

REMARKS

The Restriction Requirement dated August 27, 2008, has been received and carefully reviewed. The preceding amendments and the following remarks form a full and complete response thereto. Claims 18, 20, and 22 have been amended. No new matter is added.

In response to the restriction requirement, Applicants elect, with traverse, to prosecute Group II defined by claims 11 to 17 and 25 to 26. Applicants submit that the restriction is improper.

According to PCT Rule 13.2, two independent claims fulfill the requirement of unity of the invention if “there is a technical relationship among [the claims] involving one or more of the same or corresponding special technical features, [wherein] special technical features shall mean those technical features that define a contribution which each of the claimed invention [...] makes over the prior art”. Thus, lack of unity can only be analyzed in the context of a prior art document; otherwise, the technical features “that define a contribution [...] over the prior art” cannot be identified. In other words, two independent claims will not fulfill the unity requirement only when a prior art document exists over which only such features are novel that are different in the two claims, i.e. that do not represent “corresponding special technical features” in the sense of Rule 13.2 PCT.

Even though the Office Action recites the correct rules of the PCT, these rules have not been applied correctly since the restriction is based only upon the different categories of the claims instead of their features. Thus, for this independent reason, the election requirement is improper.

Moreover, present claims 1 and 11, both define a security element having “at least one liquid-crystalline material, characterized in that the liquid-crystalline material effects a linear polarization of light”. Hence, claims 1 and 11 share the identical substantive features. Assuming these shared features to be novel, it is therefore not possible for claims 1 and 11 to fail to fulfill the unity requirement according to the PCT. The common feature of claims 1 and 11 that “the liquid-crystalline material effects a linear polarization of light” represents a “special technical feature” in the sense of PCT Rule 13.2 such that claims 1 and 11 fulfill the unity requirement. This is supported by the fact that claim 1 could be redrafted as “an object of value with a security element, according to claim 11”, i.e., as a claim dependent of claim 11. Two claims that may be redrafted as depending on each other, however, always fulfill the requirement of unity. Thus, for this separate, independent reason, the restriction is improper.

Claims 18, 20 and 22 have been amended to depend from claim 1 and/or claim 11. Therefore, all pending claims now fulfill the unity of invention requirement.

Thus, in view of the foregoing, Applicants request that the restriction be withdrawn and that all pending claims be examined on the merits.

The Office is authorized to charge any additional fees deemed necessary in connection with this response to Deposit Account 02-2135.

Respectfully submitted,

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By: /Brian A. Tollefson/

Brian A. Tollefson

Attorney for Applicants

Registration No. 46,338

ROTHWELL, FIGG, ERNST & MANBECK, P.C.

Suite 800, 1425 K Street, N.W.

Washington, D.C. 20005

Telephone: (202)783-6040